



Office of the Attorney General

State of Texas

August 18, 1998

DAN MORALES

ATTORNEY GENERAL

Mr. John M. Knight
Assistant Police Legal Advisor
City of Arlington
Police Department
620 W. Division Street
Arlington, Texas 76004-1065

OR98-1969

Dear Mr. Knight:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117607.

The Arlington Police Department (the "department") received an open records request for all records pertaining to a certain address within a specified time period. You state that the department has released to the requestors three offense reports. You contend that three other offense reports that are responsive to the request are excepted from required public disclosure pursuant to sections 552.101 and 552.108 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 261.201(a) of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, *the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.* [Emphasis added.]


The documents you have identified as Exhibit C concern the department's investigation of a sexual assault of a child. You have not informed this office of any rules the department has adopted that would permit access to the requested records. Because Exhibit C pertains to an investigation of a sexual assault of a child, this office concludes that the department must withhold this record in its entirety pursuant to section 261.201 of the Family Code. *But see* Fam. Code § 261.201(b) (provision for court ordered access), (f) (limited right of access to records held by Department of Protective and Regulatory Services).

You contend that two other offense reports are excepted from required public disclosure pursuant to section 552.108 of the Government Code. Section 552.108(a)(1) of the Government Code, as amended by the Seventy-fifth Legislature, excepts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." Because you have informed us that Exhibits B and D pertain to pending criminal investigations and prosecutions, we conclude that you have met your burden of establishing that the release of these records at this time could interfere with law enforcement or prosecution. You therefore may withhold most of the information contained in Exhibits B and D at this time pursuant to section 552.108(a)(1).

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Because you have raised no other exception to disclosure, the department must release these types of information, including a *detailed* description of the offenses, in accordance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/RWP/mjc

Ref: ID# 117607

Enclosures: Submitted documents

cc: Gene & Cindy Gresham
4925 Greenville, #400
Dallas, Texas 75206
(w/o enclosures)